

MONTANA LEGISLATIVE HISTORY

Chapter 284 1987

Bill H 567 S _____ Original bill & history ☒ C

H. Committee on Business & Labor

Hearing Date(s) Feb 05 ☒ C

Feb 06 ☒ C

_____ ☐ C

_____ ☐ C

Date Out _____ ☐ C

S. Committee on Business & Industry

Hearing Date(s) Mar 10 ☒ C

Mar 11 ☒ C

_____ ☐ C

_____ ☐ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

HOUSE FINAL STATUS

3/17 TABLED IN COMMITTEE

HB 569 INTRODUCED BY GRADY, ET AL.
EXPAND APPLICABILITY OF RESIDENCY DEFINITION USED IN
PREFERENCE LAWS

2/02	INTRODUCED		
2/02	REFERRED TO BUSINESS & LABOR		
2/05	HEARING		
2/06	COMMITTEE REPORT--BILL PASSED		
2/09	2ND READING PASSED	87	9
2/10	3RD READING PASSED	92	6

	TRANSMITTED TO SENATE		
2/11	REFERRED TO BUSINESS & INDUSTRY		
3/10	HEARING		
3/12	COMMITTEE REPORT--BILL CONCURRED		
3/17	2ND READING CONCURRED AS AMENDED	50	0
3/17	SEGREGATED FROM COMMITTEE OF WHOLE REPORT	48	0
3/18	2ND READING CONCURRED	48	0
3/20	3RD READING CONCURRED	49	0

RETURNED TO HOUSE
3/23 SIGNED BY SPEAKER
3/24 SIGNED BY PRESIDENT

3/25 TRANSMITTED TO GOVERNOR
3/29 SIGNED BY GOVERNOR
CHAPTER NUMBER 284 EFFECTIVE DATE: 3/29/87

HB 570 INTRODUCED BY BRANDEWIE, ET AL.
ALLOW RETAIL GOLF COURSE ALL-BEVERAGE LICENSE FOR
PRIVATE AND PUBLIC COURSES

2/02	INTRODUCED		
2/02	REFERRED TO BUSINESS & LABOR		
2/10	HEARING		
2/18	COMMITTEE REPORT--BILL PASSED AS AMENDED		
2/20	2ND READING PASSED	73	19
2/21	3RD READING PASSED	73	19

	TRANSMITTED TO SENATE		
2/23	REFERRED TO BUSINESS & INDUSTRY		
3/06	HEARING		
3/24	COMMITTEE REPORT--BILL CONCURRED AS AMENDED		
3/28	2ND READING CONCURRED	50	0
3/30	3RD READING CONCURRED	48	2

	RETURNED TO HOUSE WITH AMENDMENTS		
4/08	2ND READING AMENDMENTS CONCURRED	69	13
4/09	3RD READING AMENDMENTS CONCURRED	82	13
4/14	SIGNED BY SPEAKER		
4/14	SIGNED BY PRESIDENT		

4/15	TRANSMITTED TO GOVERNOR		
4/16	RETURNED WITH GOVERNOR'S AMENDMENTS		
4/20	2ND READING GOVERNOR'S AMENDMENTS CONCURRED	89	9
4/21	3RD READING GOVERNOR'S AMENDMENTS CONCURRED	89	10

TRANSMITTED TO SENATE
4/23 2ND READING GOVERNOR'S AMENDMENTS

HOUSE BILL NO. 569

INTRODUCED BY GRADY, FRITZ, SCHYE, MANUEL, DRISCOLL,
LYBECK, HALLIGAN, BRANDEWIE, J. BROWN

IN THE HOUSE

FEBRUARY 2, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & LABOR.
FEBRUARY 6, 1987	COMMITTEE RECOMMEND BILL DO PASS. REPORT ADOPTED.
FEBRUARY 7, 1987	PRINTING REPORT.
FEBRUARY 9, 1987	SECOND READING, DO PASS.
FEBRUARY 10, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 92; NOES, 6.
	TRANSMITTED TO SENATE.

IN THE SENATE

FEBRUARY 11, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY.
MARCH 12, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 17, 1987	SECOND READING, CONCURRED IN AS AMENDED.
	ON MOTION, SEGREGATED FROM COMMITTEE OF THE WHOLE REPORT.
MARCH 18, 1987	SECOND READING, CONCURRED IN.
MARCH 20, 1987	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

MARCH 21, 1987

RECEIVED FROM SENATE.

SENT TO ENROLLING.

1 House BILL NO. 569
 2 INTRODUCED BY Danahy, Lytle, Libby, 7/1/2001
 3 Insitt, Lytle, Libby, O. Brundage, J. Crow

4 A BILL FOR AN ACT ENTITLED: "AN ACT EXPANDING THE
 5 APPLICABILITY OF THE RESIDENCY DEFINITION USED IN THE
 6 PREFERENCE LAWS CONCERNING AWARDED OF PUBLIC CONTRACTS;
 7 AMENDING SECTIONS 18-1-103 AND 18-1-111, MCA; AND PROVIDING
 8 AN IMMEDIATE EFFECTIVE DATE."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 18-1-103, MCA, is amended to read:

12 "18-1-103. Residence defined. (1) For the purpose of
 13 18-1-102, 18-1-103, 18-1-111, and 18-1-112, the word
 14 "resident" shall include actual residence of an individual
 15 within this state for a period of more than 1 year
 16 immediately prior to bidding.

17 (2) In a partnership enterprise or an association, the
 18 majority of all partners or association members shall have
 19 been actual residents of the state of Montana for more than
 20 1 year immediately prior to bidding.

21 (3) Domestic corporations organized under the laws of
 22 the state of Montana are prima facie eligible to bid as
 23 residents, but this qualification may be set aside and a
 24 successful bid disallowed where it is shown to the
 25 satisfaction of the board, commission, officer, or

1 individual charged with the responsibility for the execution
 2 of such contract that said corporation is a wholly owned
 3 subsidiary of a foreign corporation or that said corporation
 4 was formed for the purpose of circumventing the provisions
 5 relating to residence.

6 (4) Notwithstanding the foregoing, any bidder on a
 7 contract for purchase of products, materials, supplies, or
 8 equipment, whether an individual, partnership, or
 9 corporation, foreign or domestic and regardless of ownership
 10 thereof, whose offered materials, supplies, or equipment are
 11 manufactured or produced in this state by industry located
 12 in Montana and Montana labor shall be deemed to be a
 13 resident for the purpose of 18-1-102, 18-1-103, 18-1-111,
 14 and 18-1-112."

15 Section 2. Section 18-1-111, MCA, is amended to read:

16 "18-1-111. Impartiality to be shown in letting
 17 contracts -- preference to residents. The department may not
 18 show any partiality or favoritism in making awards or
 19 contracts and shall be absolutely fair and impartial. Where
 20 both the bids and quality of goods offered are the same,
 21 preference shall be given to articles of local and domestic
 22 production and manufacture, and where both the bids and the
 23 quality of goods offered are the same, preference shall be
 24 given to resident bidders ~~of the state~~ as defined in
 25 18-1-103 over nonresident bidders."

1 NEW SECTION. Section 3. Extension of authority. Any
2 existing authority of the department of administration to
3 make rules on the subject of the provisions of this act is
4 extended to the provisions of this act.

5 NEW SECTION. Section 4. Effective date. This act is
6 effective on passage and approval.

-End-

product made in their state, when Montana goes to sell paint in another state, that state might have a reciprocal preference so there is a 5% added penalty against the state that has the original preference.

CLOSING

Rep. Brown made no further comments.

HOUSE BILL NO. 569 - Expand Applicability of Residency Definition Used in Preference Laws, sponsored by Rep. Edward Grady, House District No. 47, Canyon Creek. Rep. Grady stated this bill is an act that expands the applicability of the residency definition used in the preference laws concerning the awarding of public contracts.

PROPOSERS

Ken Kelly, representing Dairy Industry Processors. Mr. Kelly submitted written testimony. Exhibit No. 15.

Edward McHugh, Clover Leaf Dairy, Helena. Mr. McHugh stated that Meadow Gold Dairy, for example, should be allowed to have the 3% preferential for a Montana product, which would allow them to have the same price bid as a Montana corporation. He said this should be allowed as long as the product is produced and processed in Montana.

Pat Melby, representing Columbia Paint Company, Helena. Mr. Melby discussed the bill. He said this bill expands the applicability of the residency definition and amending the current law.

Larry Kaufman, President, Montana Dairyman's Association. Mr. Kaufman submitted written testimony. Exhibit No. 16.

OPPOSERS

None.

QUESTIONS.

None.

CLOSING

Rep. Grady stated he hoped the committee would consider this bill so that preference to Montana products will be given.

EXECUTIVE ACTION

ACTION ON HOUSE BILL NO. 417 AND NO. 569

Chairman Kitselman referred House Bill No. 417 and House Bill No. 569 to a subcommittee composed of Rep. Glaser, Rep. Driscoll and Rep. Brandewie, with Rep. Glaser as chairman.

COMMITTEE BILL REQUEST

Mary Westwood, staff attorney, for the Montana Sulphur and Chemical Company of Billings stated that they are seeking support for a bill to be drafted by the Business and Labor Committee. Ms. Westwood commented that many small businesses have faced difficult decisions recently concerning liability insurance. She stated the Montana Sulphur and Chemical Company is the primary pollution control plant for Exxon and Conoco, and the largest producers of purified hydrogen sulphite in the United States. She said they have problems because they produce purified hydrogen sulphite which is considered a hazardous material. She said that because of having such difficulty in obtaining liability insurance at a reasonable price, they began setting aside funds from the company assets to form a self insurance fund; funds such as this are not authorized by legislation. In order to lighten the tax burden, she added, they have been putting the money into tax exempt bonds.

Ms. Westwood stated that this bill would allow small businesses to establish these independent liability funds and to receive the same kind of tax treatment that insurance companies receive. She said they have drafted a bill after conversations with the Insurance Commissioner, which provides for oversight of the funds by the Insurance Commissioner. She added that the bill would provide that there be a policy set in case of termination of the funds. Also, she said the fund would work like a pension plan; the tax on the funds would be deferred until such a time that the money is taken out because there would be no further liability. She said that many small businesses in Montana do not have any insurance, and in case of a catastrophic liability incident and the business goes out of business, there would be no funds available for the person who might be injured. She feels that this bill would protect the public. Exhibit No. 17.

QUESTIONS

Chairman Kitselman asked Ms. Westwood if the problem was that there were no means to find an environmental type of insurance coverage in case of a chemical spill. Ms. Westwood replied that they were offered policies, but they have an exclusion in them called a pollution exclusion. She

50th LEGISLATIVE SESSION -- 1987

Date February 5, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL	✓		
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES	✓		
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH	✓		
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD	✓		
REP. NORM WALLIN	✓		

Barbers and discussed the provisions of the bill and she did not see any problems with it. He said he felt they should put barbers in because when barbers are renting individual space in cosmetology salons they should be addressed or there would be another bill on this issue in two years.

Rep. Simon's motion for the amendments was voted on, and carried.

Rep. Simon moved that House Bill 381 DO PASS AS AMENDED. The motion carried with Rep. Brandewie and Rep. Cohen opposed.

ACTION ON HOUSE BILL NO. 569

Rep. Glaser moved that House Bill No. 569 DO PASS. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 437

Rep. Swysgood moved that House Bill No. 437 DO PASS.

Rep. Swysgood moved the proposed amendments. The motion carried unanimously.

Rep. Swysgood moved that House Bill No. 437 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 232

Rep. Thomas moved that House Bill No. 232 DO PASS.

Rep. Thomas moved the amendments to House Bill No. 232. The motion carried unanimously.

Rep. Thomas moved that House Bill No. 232 DO PASS AS AMENDED. The motion carried unanimously.

ACTION ON HOUSE BILL NO. 372

Rep. Brandewie moved that House Bill No. 372 DO PASS.

Rep. Simon moved to amend the bill to insert May 1 as the effective date. The motion carried unanimously.

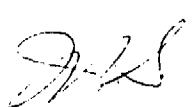
Rep. Driscoll moved that House Bill NO. 372 DO PASS AS AMENDED. The motion carried with Reps. Grinde, Kitselman, and Swysgood opposed.

February 6

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABORreport HOUSE BILL NO. 569☒ do pass
☐ do not pass☐ be concurred in
☐ be not concurred in☐ as amended
☐ statement of intent attachedREP. LES KITSELMAN

Chairman


FIRSTreading copy (**WHITE**)
color

Mr. Ted Doney, representing the Montana Dairymen's Association clarified that Mr. Kelly represented the milk processors for the milk plants in Montana, while he himself represented the dairy farmers and milk producers. He stated that 65% of the milk producers in the state of Montana sell their milk to Meadow Gold and that precludes them from bidding on any state milk contracts at the present time. They feel it is a very unfair policy. Therefore, the dairymen's association supports this bill because it would bring back into the law that which has been in practice the last thirty years. The new interpretation of the law by the Department of Administration excludes any bids by Meadow Gold and is very unfair.

Mr. Don Ingels, Helena, with the Montana Chamber of Commerce stated that they would like to express their support of the bill.

OPPONENTS: There were no opponents to HB 569.

DISCUSSION OF HOUSE BILL NO. 569: Chairman Kolstad called for questions from the committee. Sen. Hager asked Rep. Grady if this bill would go broader than to just the milk industry and Rep. Grady felt that it would. He deferred to Mr. Kelly who stated that as far as he knew the milk industry was the only one in the state whereby another agency sets the price that they have to enumerate in the bid; however, if there are others with like circumstances, they would fall under this bill. On the other hand, if there isn't anyone, then they would fall under Section 111. Sen. Hager then asked if other milk products would be affected, and the answer was, "no", only milk.

Rep. Grady closed the hearing on HB 569 by stating that he feels the bill is spelled out quite well to protect the Montana dairy producers so that they can compete for the state bids. He pointed out that HB 569 had passed the House by a 96-2 vote.

CONSIDERATION OF HOUSE BILL NO. 411: Rep. John Harp, House District 7, Kalispell, chief sponsor of this bill opened the hearing by stating that currently line trucks that have "telescoping booms" that do not exceed more than 36 feet are exempt from the regulatory laws. However, within the last year one of the utility companies purchased a boom with a gib that went over the 36 feet and were concerned that they would not be able to meet the requirements to be exempt. He pointed out that all of the

Business & Industry COMMITTEE
50th LEGISLATIVE SESSION -- 1987

Date 3/10/87

NAME	PRESENT	ABSENT	EXCUSED
ALLEN C. KOLSTAD, CHAIRMAN	✓		
TED NEUMAN, VICE CHAIRMAN	✓		
PAUL BOYLAN	✓		
TOM HAGER	✓		
HARRY H. McLANE	✓		
DARRYL MEYER	✓		
GENE THAYER	✓		
MIKE WALKER	✓		
CECIL WEEDING	✓		
BOB WILLIAMS	✓		

Each day attach to minutes.

DATE March 10, 1987

COMMITTEE ON

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

NAME: K. M. Kelly DATE: 3/10/87
ADDRESS: 4605 Glass Drive Helena Mt. 59601 SENATE BUSINESS & INDUST

PHONE: 458-5861 DATE: 3/10/87
BILL NO. HB 569

REPRESENTING WHOM? Montana Dairy Industry Processors

APPEARING ON WHICH PROPOSAL: HB 569

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: HB 569 is designed to preserve "resident status" for a bidder once they qualify under 18-1-10 by using Montana products, processed in a Montana facility, using Montana Labor.

The Montana Board of milk control sets the prices state institutions must pay for milk and therefore bids to supply milk are always identical as far as price is concerned. Recently the Board has eliminated corporations whose headquarters is out-of-state as bidders even though they meet the criteria of sec 18-1-103. For the purposes of that subsection we have added 18-1-111 (the bid section) to sections 18-1-102 + 18-1-103 and 18-1-112.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

K. M. Kelly

H.B. 569 - SUMMARY

Scope. H.B. 569 amends 18-1-103, which defines "resident bidder" for public contract bid preference provisions. The amendments simply add 18-1-111 to the statutes listed in 18-1-103(1) and (4) which are covered by the existing "resident bidder" definition. The amendments will result in a uniform definition of "resident bidder", and correct a problem that now affects a significant segment of Montana's dairy industry.

Background. In December of last year, the Purchasing Division of the Department of Administration closed the state institution dairy product market to Montana's four Meadow Gold Dairies, and their 165 Montana milk producers. The Purchasing Division decided that since milk supply proposals for the School for the Deaf and Blind were equal, 18-1-111 was the proper preference statute to apply. The Purchasing Division then decided that since Meadow Gold Dairies are owned by Beatrice Dairy Products, Inc., an out-of-state corporation, they are

nonresidents under 18-1-111, and a different distributor's proposal would be preferred.

Effects Of H.B. 569. 18-1-111 was enacted in 1923, and has remained substantially unchanged since. This bill harmonizes 18-1-111 with the newer bid preference provisions in 18-1-102, 18-1-103, and 18-1-112. Meadow Gold dairies are, and long have been treated as "resident bidders" under the more recent statutes.

The four Meadow Gold dairies in Montana, which are located in Billings, Great Falls, Kalispell, and Missoula, account for nearly one-half of the state's total Grade A milk production. Approximately 165 Montana dairy producers, or roughly 65% of the state's total, sell their raw milk to Meadow Gold for processing.

These Montana producers will be penalized unfairly if the state institution market is not reopened to them. That market is substantial, and irreplaceable in these times of economic stagnation.

The producers suffer because the price they receive for their milk depends on its usage. Without access to the state institution market, more of the producers' milk will be allocated to a lower usage class, reducing the producers' income.

For example, Missoula's Meadow Gold Dairy is served by 36 dairy producers. For several years, their milk has been used to supply the University of Montana. These contracts have averaged about \$350,000 per year. If Meadow Gold is denied that market, the producers stand to lose, on average, about \$4,500 per year.

H.B. 569 does not change the definition of "resident bidder" in 18-1-103. The Meadow Gold Dairies have qualified as resident bidders under that definition for nearly 20 years, because their products originate on Montana dairy farms and are processed in Montana facilities by Montana labor.

H.B. 569 will not add a cent to the cost of milk supplied to state institutions. The price of milk is subject to rigid state control, and milk supply proposals are the same whether they are

submitted by Meadow Gold or someone else. The measure has no effect on milk supply contracts awarded by school districts or other governmental subdivisions. The statute in question, 18-1-111, applies only to state institution supply contracts.

H.B. 569 will not change how milk supply contracts have been awarded. For over 20 years, until December of 1986, Meadow Gold dairies had participated in the procurement process for state institution contracts on equal footing with other distributors. Since all the dairies' proposals were dictated by state price controls, they were placed in a hat and the contract was awarded to the one drawn out.

Conclusion. H.B. 569 removes an inconsistency in the application of bid preference provisions that is penalizing unfairly over one-half of Montana's dairy producers. Enactment of this measure will restore equal treatment for those producers, at no cost to any other taxpayer.

long time to wait after failing the test twice. That would mean he would have to work under supervision for two years.

There being no further questions from the committee, Rep. Corne' closed on the bill, stating that if the committee concurred in the bill, Sen. Hager would be willing to carry it in the Senate.

The hearing was closed on HB 443.

DISPOSITION OF HOUSE BILL NO. 443: Sen. Williams MOVED HB 443 BE CONCURRED IN, seconded by Sen. Walker, with the Statement of Intent. However, Ms. McCue said she had a problem with the Statement of Intent in that it appeared to be just statements of fact and the purpose of the statement is to give some directive as to what kind of rules are needed. Therefore, she felt there should be some language added defining unprofessional conduct. She asked the committee for their feeling. She felt they should contact the sponsor to see if there was some directive he would like to put in the statement or if he was satisfied with it as it is.

Chairman Kolstad asked if there could be a simple statement added to the end of the statement of intent to make it a little more complete. Ms. McCue said that would be possible and she didn't think it satisfied the requirement of a statement of intent as it is now. It contains nothing as to the rulemaking. She said if they could tell her what kind of rules they wanted, she could put it into the proper verbage.

Dr. Beaman said there is already concern in the law regarding alcohol abuse and drug abuse as unprofessional conduct. Ms. McCue said perhaps a statement could be added saying that these rules should follow what they are using now and asked Dr. Beaman to advise her on those rules.

Sen. Neuman asked if this, in any way, expanded the third party payment and Dr. Beaman said currently, a psychologist licensed in the state, does have third party reimbursement - nothing would change in that area.

The question being called, the MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 569: Sen. Walker MOVED HB 569 BE CONCURRED IN, seconded by Sen. Meyer. The MOTION CARRIED UNANIMOUSLY.

DISCUSSION OF HOUSE BILL NO. 240: Chairman Kolstad inquired of Ms. McCue if she had done anything on HB 240. Amendments were proposed by Carl England to which Mr. Drake was adamantly opposed. Sen. Walker commented that this was covered in other sections of the bill, according to Mr. Robischon at the hearing, and therefore, the amendment was not needed. He had no problem with the bill as written.

MARCH 11, 1937

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE BILL No. 569

THIRD reading copy (BLUE color)

EXPAND APPLICABILITY OF RESIDENCY DEFINITION USED IN PREFERENCE LAWS
GRADY (MC LANE)

Respectfully report as follows: That HOUSE BILL No. 569

BE CONCURRED IN

XXXXXX
DO PASS

XXXXXX
DO NOT PASS

SENATOR ALLEN C. KOLSTAD, Chairman.